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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---------------|----------------------|---------------------|------------------|
| 10/552,361 | 11/27/2006 | Ralf Plaumann | 01012-1029 | 8283 |
| 30671 | 7590 | 06/08/2009 | EXAMINER | |
| DITTHAVONG MORI & STEINER, P.C. 918 Prince St. Alexandria, VA 22314 | | | RIZK, SAMIR WADIE | |
| ART UNIT | PAPER NUMBER | | 2112 | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/552,361 | PLAUMANN ET AL. | |
| | Examiner | Art Unit | |
| | SAM RIZK | 2112 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 26 March 2009.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-5 and 7-11 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-5 and 7-11 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 26 March 2009 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application

6) Other: _____.

DETAILED ACTION

- Response to the applicant's amendment dated 3/26/2009
- Claims 6 and 12 have been Cancelled
- Amended claims 1-5 and 7-11 have been submitted for examination
- Amended claims 1-5 and 7-11 have been rejected

Drawings Objections

1. In view of the applicant's amended drawings filed on 3/26/2009, all objections to the drawings are withdrawn.

Claims Objections

2. In view of the applicant's amended claim 1 filed on 3/26/2009, all objections to the claim 1 are withdrawn.

Claim Rejections - 35 USC § 112

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The cited limitation

Requesting a further, redundant data block for error correction, if an error is determined in the transmitted data of the first data block, receiving the request in the transmitter/receiver station, retransmitting the first data block instead of a redundant data block, and determining the rate of the incorrectly received first data blocks~ wherein a further, redundant data block is additionally transmitted by the transmitter/receiver station in the event of a request for a further data block, in order to compare the determined error rate without error correction with an error rate with error correction by incremental redundancy.

Is ambiguous. The Examiner is not clear on what is being retransmitted.

4. Claim 7 is rejected for the same reasons as per claim 1.
5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 14 the Applicant recites (emphasis added) "retransmitting the first data block instead of the redundant data block", whereas line 16 recites "redundant data block is additionally transmitted". The Examiner interpret that both "the first data block" and the redundant data bock" are transmitted if error is determined in the transmitted data of the first data block.

Claim 1 will not be examined on the merits.

6. Claim 7 is rejected for the same reasons as per claim 1.
Claim 7 will not be examined on the merits.
7. Claim 1 recites the limitation " redundant data block" in lines 11, 14 and 16.
There is insufficient antecedent basis for this limitation in the claim.
8. Claim 1 recites the limitation " redundant data block" in lines 6, 7 and 10. There is insufficient antecedent basis for this limitation in the claim.

Response to Arguments

9. Applicant's arguments filed on 3/26/2009 have been fully considered, however because of the **35 USC § 112**, second paragraph rejections for being indefinite

and the amended limitation in the independent claims 1 and 7 being ambiguous as what is being retransmitted; the first data block only; or the first data block and the redundant data block ?. These limitations have not been examined on the merits.

10. Updated rejections follow.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-5 and 7-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al. US publication no. 2002/0053058 (Hereinafter lee).
12. Claim 1 and are not being examined on the merits.
13. In regard to claim 2, Lee teaches:

A method according to claim 1, wherein the first data block and the further, redundant data blocks are generated by convolutional coding with different punctuation schemes.
(Figure 1 in lee)
14. In regard to claim 3, lee teaches:

A method according to claim 2, wherein the punctuation scheme used for the

generation of the first data block is determined.

(Figure 1 in lee)

15. In regard to claim 4, Lee teaches:

A method according to claim 1, wherein the different, redundant data blocks are stored in a memory of the transmitter/receiver station and that the first data block stored in a memory position assigned to the first data block is transmitted in the event of a request for the further data block.

(Figure 1, ref. the two "Puncturing" part in lee)

16. In regard to claim 5, Lee teaches;

- A method according to any claim 1, wherein the first data block is also stored in a memory of the transmitter/receiver station instead of the different, redundant data blocks and in their respective memory positions and that the data block stored in the respective memory position is transmitted in the event of a request for a further data block.

(The puncturing (first data block) is stored in one of the puncturing parts and the redundant data block is stored in the second puncturing part and being switched based on NACK I/II decision in figure 1 in Lee)

17. Claim 7 is rejected for the same reasons as per claim 1.
18. Claim 8 is rejected for the same reasons as per claim 5.
19. Claim 9 is rejected for the same reasons as per claim 2.
20. Claim 10 is rejected for the same reasons as per claim 2.
21. Claim 11 is rejected for the same reasons as per claim 4.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Rizk whose telephone number is (571) 272-8191. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571) 272-3644. The fax phone

number for the organization where this application or proceeding is assigned is
(703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronics Business Center (EBC) at 866-217-9197 (toll-free)

/Sam Rizk/

Examiner, Art Unit 2112

/Guy J Lamarre/

Primary Examiner, Art Unit 2112